

### § 3.275

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account of a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the surviving spouse and child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the maintenance of the child.

(Authority: 38 U.S.C. 1543(a)(2))

(e) *Child*. Pension payable to a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom the child is residing who is legally responsible for such child's support, and the corpus of estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance.

(Authority: 38 U.S.C. 1543(b))

#### § 3.275 Criteria for evaluating net worth.

(a) *General*. The following rules are for application in determining the corpus of estate or net worth of a veteran, surviving spouse or child under § 3.274.

(b) *Definition*. The terms *corpus of estate* and *net worth* mean the market value, less mortgages or other encumbrances, of all real and personal property owned by the claimant, except the claimant's dwelling (single family unit), including a reasonable lot area, and personal effects suitable to and consistent with the claimant's reasonable mode of life.

(c) *Ownership*. See § 3.271(d).

(d) *Evaluation*. In determining whether some part of the claimant's estate (or combined estates under § 3.274 (a) and (e)) should be consumed for the claimant's maintenance, consideration will be given to the amount of the claimant's income together with the following: Whether the property can be readily converted into cash at no substantial sacrifice; life expectancy; number of dependents who meet the definition of *member of the family* (the definition contained in § 3.250(b)(2) is

applicable to the improved pension program); potential rate of depletion, including unusual medical expenses under the principles outlined in § 3.272(g) for the claimant and the claimant's dependents.

(e) *Educational expenses*. There shall be excluded from the corpus of estate or net worth of a child reasonable amounts for actual or prospective educational or vocational expenses. The amount so excluded shall not be such as to provide for education or training beyond age 23.

(Authority: 38 U.S.C. 501)

(f) *Agent Orange settlement payments*. There shall be excluded from the corpus of the estate or net worth of a claimant any payment made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *In re Agent Orange product liability litigation*, M.D.L. No. 381 (E.D.N.Y.). (January 1, 1989)

(Authority: Pub. L. 101–201, 103 Stat. 1795)

(g) *Restitution to individuals of Japanese ancestry*. There shall be excluded from the corpus of estate or net worth of a claimant any payment made as restitution under Public Law 100–383 to individuals of Japanese ancestry who were interned, evacuated, or relocated during the period December 7, 1941, through June 30, 1946, pursuant to any law, Executive order, Presidential proclamation, directive, or other official action respecting these individuals. (August 10, 1988)

(Authority: Sec. 105, Pub. L. 100–383; 102 Stat. 905)

(h) *Radiation Exposure Compensation Act*. There shall be excluded from the corpus of estate or net worth of a claimant any payment made under Section 6 of the Radiation Exposure Compensation Act of 1990.

(Authority: 42 U.S.C. 2210 note)

(i) *Monetary allowance under 38 U.S.C. chapter 18 for certain individuals who are children of Vietnam veterans*. There shall be excluded from the corpus of estate or net worth of a claimant any allowance paid under the provisions of 38

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U.S.C. chapter 18 to or for an individual who is a child of a Vietnam veteran.

(Authority: 38 U.S.C. 1833(c))

(j) *Victims of Crime Act*. There shall be excluded from the corpus of estate or net worth of a claimant any amounts received as compensation under the Victims of Crime Act of 1984 unless the total amount of assistance received from all federally funded programs is sufficient to fully compensate the claimant for losses suffered as a result of the crime.

(Authority: 42 U.S.C. 10602(c))

(k) *Medicare Prescription Drug Discount Card and Transitional Assistance Program*. There shall be excluded from the corpus of estate or net worth of a claimant payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card.

(Authority: 42 U.S.C. 1395w-141(g)(6))

[44 FR 45936, Aug. 6, 1979, as amended at 57 FR 59300, Dec. 15, 1992; 60 FR 2523, Jan. 10, 1995; 62 FR 51279, Sept. 30, 1997; 67 FR 49587, July 31, 2002; 68 FR 60852, Oct. 24, 2003; 70 FR 15591, Mar. 28, 2005]

### § 3.276 Certain transfers or waivers disregarded.

(a) *Waiver of receipt of income*. Potential income, not excludable under § 3.272 and whose receipt has been waived by an individual, shall be included as countable income of that individual for Department of Veterans Affairs pension purposes.

(b) *Transfer of assets*. For pension purposes, a gift of property made by an individual to a relative residing in the same household shall not be recognized as reducing the corpus of the grantor's estate. A sale of property to such a relative shall not be recognized as reducing the corpus of the seller's estate if the purchase price, or other consideration for the sale, is so low as to be tantamount to a gift. A gift of property to someone other than a relative residing in the grantor's household will not be recognized as reducing the corpus of the grantor's estate unless it is clear that the grantor has relinquished all

rights of ownership, including the right of control of the property.

(Authority: 38 U.S.C. 501)

### § 3.277 Eligibility reporting requirements.

(a) *Evidence of entitlement*. As a condition of granting or continuing pension, the Department of Veterans Affairs may require from any person who is an applicant for or a recipient of pension such information, proofs, and evidence as is necessary to determine the annual income and the value of the corpus of the estate of such person, and of any spouse or child for whom the person is receiving or is to receive increased pension (such child is hereinafter in this section referred to as a *dependent child*), and, in the case of a child applying for or in receipt of pension in his or her own behalf (hereinafter in this section referred to as a *surviving child*), of any person with whom such child is residing who is legally responsible for such child's support.

(b) *Obligation to report changes in factors affecting entitlement*. Any individual who has applied for or receives pension must promptly notify the Secretary of any change affecting entitlement in any of the following:

- (1) Income;
- (2) Net worth or corpus of estate;
- (3) Marital status;
- (4) Nursing home patient status;
- (5) School enrollment status of a child 18 years of age or older; or
- (6) Any other factor that affects entitlement to benefits under the provisions of this Part.

(c) *Eligibility verification reports*. (1) For purposes of this section the term eligibility verification report means a form prescribed by the Secretary that is used to request income, net worth, dependency status, and any other information necessary to determine or verify entitlement to pension.

(2) The Secretary shall require an eligibility verification report under the following circumstances:

- (i) If the Social Security Administration has not verified the beneficiary's Social Security number and, if the beneficiary is married, his or her spouse's Social Security number;
- (ii) If there is reason to believe that the beneficiary or his or her spouse